

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JESSIE J. BARNES,
Plaintiff,

DECISION & ORDER
10-cv-6164

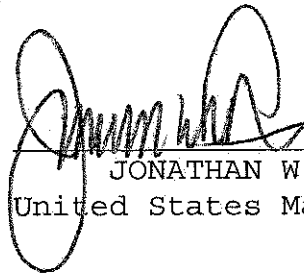
v.

RONALD HARLING, et al.,
Defendants.

On September 7, 2016, this Court granted plaintiff Jessie J. Barnes's ("plaintiff") motion to compel a video recording of an incident which plaintiff alleges is central to his claim (Docket # 240). Since then, the Court received several letters from plaintiff detailing his inability to view the recording (Docket ## 246, 247, 251). Apparently, counsel for defendants sent multiple copies of the recording to plaintiff's prison, but none will play on the prison equipment.

Plaintiff is entitled to the recording in a "reasonably usable form." Fed. R. Civ. P. 34(b)(E)(ii). A copy of the recording that plaintiff cannot actually view cannot be said to be reasonable or usable. Accordingly, defendants' counsel is directed to contact plaintiff's counselor or some other appropriate representative at the Upstate Correctional Facility to ensure that plaintiff receives and is able to view a copy of the recording.

Additionally, this Court is in receipt of defendants' letter request to extend the time for the parties to file dispositive motions to February 15, 2017. However, plaintiff should be provided with an opportunity to view the recording before the parties move for summary judgment. Accordingly, defendants' counsel shall notify this Court when plaintiff has been provided access to the video recording. The Court will then issue an amended scheduling order setting the time for the parties to file dispositive motions.

A handwritten signature in black ink, appearing to read 'Jonathan W. Feldman', is written over a horizontal line.

JONATHAN W. FELDMAN
United States Magistrate Judge

Dated: January 25, 2017
Rochester, New York